

Business and Regulatory Impact Assessment (BRIA)

Title of Proposal

The Pavement Parking Prohibition (Exemption Orders Procedure) (Scotland) Regulations 2022

Purpose and intended effect

Background

The Scottish Government has been working to improve parking legislation in Scotland in order to tackle the impact of inconsiderate and obstructive parking and ensure that our roads and pavements are accessible for all.

As part of this work, The Transport (Scotland) Act 2019 bans pavement parking, double parking and parking at dropped kerbs, and gives local authorities powers to enforce these new provisions. The Act also gives local authorities the power to exempt sections of footway from the pavement parking prohibition in certain circumstances and in accordance with Ministerial directions. To support these provisions, a suite of secondary legislation is required, including these regulations which are needed to ensure operability of the new legislation and provide for procedural consistency on certain key elements of the process. Regulations will also be needed to bring the relevant provisions of the Act into force in due course, with further regulations relating to enforcement being developed. This suite of legislation will give local authorities the tools they need to be able to effectively tackle the issues of inconsiderate and obstructive parking.

Objective

The purpose of the Regulations made under Section 52 of the Act is to provide a procedure for local authorities to follow when using their powers under section 51 of the Act to make, amend or revoke an order to exempt a section of footway (which has characteristics set out in a ministerial direction) from the national pavement parking ban.

Rationale for Government Intervention

Parking forms an essential part of local roads authorities' transport strategies to help reduce congestion and improve safety for all road users. The national pavement parking prohibition is vital in ensuring people can get about their day to day business, but there is recognition that there may be certain sections of a footway, having specified characteristics, that it may be appropriate to exempt from the ban.

Consultation

Within Government

For these Regulations we have consulted with the Planning and Environmental Appeals Division (DPEA) in core Scottish Government. This consultation was

required due to a section of the regulations giving a local authority the power to refer a proposed Exemption Order to a reporter for a Hearing.

Public Consultation

We undertook a public consultation on the Regulations which ran for a period of 12 weeks from 17 December 2021 to 11 March 2022. The consultation was published on both Transport Scotland's website and the Scottish Government's Citizen Space website.

The final number of consultation responses received was 626. Of these, 20 were submitted by local authorities and 3 by Community Councils. 15 other respondents also identified their organisation, and 589 were listed as individuals.

Business

Throughout the development of the consultation we engaged with key stakeholders from our Parking Standards Group. The group has a range of stakeholders, including representatives from Living Streets Scotland, COSLA, SCOTS, members of the parking industry, Guide Dogs Scotland, local authorities, Regional Transport Partnerships, Cycling Scotland and the Federation of Small Businesses. A number of these stakeholders also provided a response to the public consultation.

Options

Option 1 – Proceed with The Pavement Parking Prohibition (Exemption Orders Procedure) (Scotland) Regulations 2022.

Option 2 – Do Nothing.

Sectors and groups affected

All of the options have impacts for the following sectors and groups:

- Local Authorities
- The Scottish Government
- Individuals, motorists and pedestrians

Option 1 – Proceed with The Pavement Parking Prohibition (Exemption Orders Procedure) (Scotland) Regulations 2022

Benefits

The benefits of proceeding with the above regulations are:

- Follows the primary legislation (Section 52) of the Transport (Scotland) Act 2019
- Gives local authorities a procedure to follow to exempt appropriate areas of footway from the national pavement parking ban. Local authorities will be

best placed to decide if an exemption is needed on streets for which they are responsible.

Costs

The full costs of implementing Exemption Orders are not yet known, however we have an estimate of between £80-£100 per space following discussions with the Society of Chief Officers of Transportation in Scotland (SCOTS). The costs per local authority will vary depending on the number of Orders promoted by a local authority, the number of bays in the Order and the number of signs/lines required. The Scottish Government have to date fully funded the requests from COSLA and SCOTS for the road assessments at a total cost of £2.4 million.

The exact costs of the regulations to both the Scottish Government and local authorities will not be known until local authorities have fully assessed their streets and decided which areas of pavement they intend to make exempt from the prohibitions. Further talks will be required between the Scottish Government, COSLA and SCOTS when full details of the initial exemption orders have been received.

Option 2 – Do Nothing

Benefits

N/A – There are no benefits to doing nothing as we would not be providing a procedure for LAs to use the powers given to them by primary legislation (Transport (Scotland) Act 2019) to make exemption orders.

Costs

N/A

Scottish Firms Impact Test

As mentioned above, our Parking Standards Group has a range of stakeholders, including representatives from Living Streets Scotland, COSLA, SCOTS, the parking industry, Guide Dogs Scotland, Regional Transport Partnerships, Cycling Scotland and the Federation of Small Businesses. Throughout discussions during meetings with the group and responses to the public consultation, there were no concerns raised about negative impacts on Scottish businesses/companies.

We do not believe there will be any notable impact on businesses, international trade or investment as the exemption orders do not place a financial burden upon them.

Competition Assessment

As explained above, we do not envisage any impact on businesses or firms. This includes the competition between firms. Local authorities will be responsible for assessing their roads, deciding if any Exemption Orders are required then they will also be able to enforce the national ban. This will not relate to any businesses or firms.

- Will the measure directly or indirectly limit the number or range of suppliers? – No
- Will the measure limit the ability of suppliers to compete? – No
- Will the measure limit suppliers' incentives to compete vigorously? – No
- Will the measure limit the choices and information available to consumers? – No

Consumer Assessment

Similarly to the above, we do not envisage any impacts on consumers as this legislation is not related to the quality, availability or price of goods or services in a market.

- Does the policy affect the quality, availability or price of any goods or services in a market? – No
- Does the policy affect the essential services market, such as energy or water? – No
- Does the policy involve storage or increased use of consumer data? – No
- Does the policy increase opportunities for unscrupulous suppliers to target consumers? – No
- Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these? – No
- Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues? – No

Test run of business forms

This legislation will not require any new forms to be completed by businesses.

Digital Impact Test

We are proposing that Exemption Orders follow a similar process to that of Traffic Regulation Orders (TROs) however we have taken into account the shift in recent times to online advertising rather than advertising in the printed press.

For these regulations, we are proposing that if a local authority wishes to promote an Exemption Order, they must publish it on their website for a set period of time, and consider whether other advertising arrangements are necessary. The other types of advertising arrangements could be online or printed newspapers, social media or leaflet distribution.

- Does the measure take account of changing digital technologies and markets? – Yes, see above.
- Will the measure be applicable in a digital/online context? – Yes, see above.

- Is there a possibility the measures could be circumvented by digital / online transactions? – No
- Alternatively will the measure only be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses? – In some cases, local authorities may choose to advertise an Exemption Order only in a digital context. We do not envisage this would have an adverse impact on traditional or offline businesses as this is new legislation and does not affect any kind of existing revenue stream.
- If the measure can be applied in an offline and online environment will this in itself have any adverse impact on incumbent operators? – We do not envisage there will be any adverse impact and received no feedback in the public consultation regarding these measures.

Legal Aid Impact Test

We do not envisage there would be an increased need to use legal processes and therefore no impact on the legal aid fund. The Exemption Order process will be undertaken by local authorities and will not lead to an increased need for individuals to seek legal help.

Enforcement, sanctions and monitoring

Local authorities will have the powers to enforce the parking prohibitions contained in the Transport (Scotland) Act 2019 which includes the national pavement parking ban. However the Regulations supporting enforcement for these prohibitions are not likely to be in force until 2023. Transport Scotland will be progressing Regulations supporting enforcement at the same time as local authorities will be undertaking their road assessments and promoting any required Exemption Orders.

Implementation and delivery plan

The Regulations will be laid in draft on 27 September and come into force on 9 December 2022.

Post-implementation review

Local authorities will have the power to amend or revoke Exemption Orders by following the same process as making an order therefore they will be able to continually review the exemption to see if it's working as intended.

Summary and recommendation

Option 1 – Proceed with The Pavement Parking Prohibition (Exemption Orders Procedure) (Scotland) Regulations 2022. This option is being recommended to allow for the effective operation of the primary legislation (Transport (Scotland) Act 2019). The costs of implementing an Exemption Order are not yet known. The cost will vary in accordance with the number of Orders promoted by a local authority, the number of bays in the Order and the number of signs/lines required. Local authorities will not know this information until they have carried out an

assessment of their streets. Further conversations will be progressed had with COSLA to collate this information for Transport Scotland.

• **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
Option 1 – Proceed with The Pavement Parking Prohibition (Exemption Orders Procedure) (Scotland) Regulations 2022	To ensure our roads and pavements are accessible to all.	The cost of Exemption Orders depends on the number put forward by Local Authorities and is therefore not fully quantifiable at this time.

Declaration and publication

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non-departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication. Use appropriate text from choices below:

• **Sign-off for Partial BRIAs:**

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Jenny Gilruth

Date: 22 September 2022

**Jenny Gilruth
Minister for Transport**

Scottish Government Contact point: Fred O'Hara